

# LEGAL NEWSLETTER

- *Issue N1, 03.06.04*
- **Mgaloblishvili, Kipiani,  
Dzidziguri (MKD) Law Firm**

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# Laws

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- **F**inancial Police was established pursuant to the **Law of Georgia on Financial Police**, dated 24 February 2004. Financial Police (FP) operates under the auspices of the Ministry of Finance of Georgia and is aimed at fighting economic and financial crime. Previously this function was vested with three separate bodies: Investigative Department of the Ministry of Finance, Criminal Service of the Customs Department and Operative Service of the Tax Department.
- FP is granted with a wide range of investigative powers in the field of economic crimes: FP conducts preliminary investigation, brings criminal action in connection with economic crime, solicits relevant data from the tax and customs authorities regarding specific taxpayers etc. FP is a centralized organ (with the main division and local/regional sub-divisions) led by the head of the Financial Police who is appointed by the President of Georgia after the relevant submission of the Minister of Finance.
- Following **The Law on Amendments in the Tax Code of Georgia**, dated 24 February 2004, certain amendments have been made in Article 118 regarding the amount of VAT to be credited in case it exceeds amount of tax charged for accounting period; In Article 119 regarding refund of VAT in case of goods purchased on the grant basis; In Article 129 regarding Excise credit for inputs; and Article 240 regarding refund of excess tax paid and accumulation in the sub-accounts of tax income amounts paid in excess.
- In addition, **The Law of Georgia on Amendments in the Customs Code of Georgia**, dated 24 February 2004 introduced changes in Article 75 of the Code regarding and accumulation in the sub-accounts of tax income amounts paid in excess and refund of customs duties paid in excess.
- **The Law of Georgia on Restructuring Tax Liabilities and State Debts**, dated 13 February sets special rules for

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restructuring due tax liabilities and state debts (including state guarantees and credits) of various enterprises. Ultimate decision on restructuring is made by the Government of Georgia pursuant to applicable procedures. Special commission of the Ministry of Finance studies possible restructuring cases of specific enterprise. After the thorough analyses of the enterprise - its financial/economic viability - Commission obtains necessary consents from the company and its large creditors and makes a relevant decision on company restructuring. The decision is envisaged in the restructuring agreement entered into by the Ministry of Finance and an enterprise in question, which contains concrete schedule for restructuring of tax liabilities and/or state debts. Such restructuring is accomplished in two ways: (i) *freezing* payment of tax liabilities and/or state debts up to the period of 24 months and (ii) *suspension* (deferred payment) of tax liabilities and/or state debts up to 36 months. In special cases (e.g. state owned enterprises

aimed for future privatization, enterprises which are considered of strategically important for economic development or having considerable export potential) restructuring periods shall be extended up to 15 and 5 years respectively. Creditors who expressed their consent to restructuring process are not entitled to claim recoup of their debts or initiate bankruptcy proceedings during the restructuring period.

## Secondary Legislation

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- According to **Order No 65 of the Head of Financial Monitoring Services of Georgia**, dated 28 April, 2004, and, under the Law of Georgia on Prevention of Legalization of Illicit Income (art.2,e.), the following jurisdictions are declared as non-cooperative zones: Cook Islands, Nigeria, Guatemala, Indonesia, Myanmar, Nauru and Philippines.
- As a result of changes from April 23, 2004, into the Constitution of Georgia, **the Parliament** has authorized by its **Resolution** the Parliamentary Law Committee to submit to the Parliament a set of legislative acts related to modifying and optimizing the status of MP.
- **The Minister of Finance of Georgia** has issued **Order No 283**, dated 23 April, 2004, whereby customs duties' exemptions are provided for import and export of products and services under the Agreement among the Government of the Republic of Georgia and the Government of the United States of America on Humanitarian and Technical Economic Cooperation and Assistance from July 31, 1992. Under the Order, zero VAT shall also apply to goods and services which are also covered by the said Agreement. In addition to providing for some other benefits (exemption from payroll, profit, property, land taxes, etc.), the Order No 283 discusses applicable rules and procedures for obtaining such exemptions.
- **Resolution No 23 of the Government of Georgia**, dated 13 April, 2004, sets up the Integral Centre for Investors' Services, which, *inter alia*, shall provide for informational, consultancy and analytical services to existing and potential investors as well as for carrying some research and identifying potential investment projects.
- By **Order No 67 of the President of the National Bank of Georgia**, dated 7 April, 2004, a whole range of economic normative and limits were established for local commercial banks. And, **Order No 51 of the President of the National Bank of Georgia**, dated 17

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March, 2004, enacted new set of rules for opening up accounts in commercial banks of Georgia.

- Order No 17 of the Head of Insurance State Supervisory Services, **dated 1 April, 2004, introduces new license forms for insurance activities and insurance brokerage in Georgia.**
- **Decree No 13 of the Government of Georgia**, dated April 3, 2004, provides for setting up a governmental working group for the purpose of studying implementation of terms of environmental permit on Baku-Tbilisi-Ceyhan Oil Pipeline. This group includes representatives of the Ministry of Environment and Protection of Natural Resources, the Ministry of Infrastructure and Development, the Ministry of Justice, the Ministry of Energy, the Special Service of State Protection and GIOC. Representatives of non-governmental organisations and experts shall also be invited to participate in the working group.

Following **Order No 14 of the Head of State Regulatory Agency of Georgia on Oil and Natural Gas Resources**, dated 23 December, 2003, some principal

amendments in relation to assignment of contractual rights and obligations by investor have been brought into the Regulations for Oil and Gas Operations in Georgia. Those rules relate to assigning such rights and obligations both to affiliated company or any third party.

**By the Resolution No 3345-rs of the Parliament of Georgia**, dated 17 February, 2004, Georgia has ratified the Strasbourg 1990 Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

- According to **Order No 39 of the Head of Financial Monitoring Services of Georgia**, dated 30 January

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2004, and, under the Law of Georgia on Prevention of Legalization of Illicit Income, brokerage companies are becoming accountable for recording and providing with respective information the Financial Monitoring Service of Georgia. Same principles apply to insurance companies and private pension funds under **Order No 37 of the Head of Financial Monitoring Services of Georgia**, dated 30 January 2004, currency exchange points under **Order No 25 of the Head of Financial Monitoring Services of Georgia**, dated 29 December 2004, and non-banking depositary entities (credit unions) under **Order No 27 of the Head of Financial Monitoring Services of Georgia**, dated 31 December 2004.

Mgaloblishvili, Kipiani, Dzidziguri (MKD) law firm was founded in November 1996. It operates as a general partnership and is recognized as well-established, respected leading law firm in Georgia with local, national and international clients serving legal council to corporations, international financing institutions, NGO's, foundations and individuals.



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***Disclaimer:*** This Legal update is written as a general guide only. It is not intended to contain definitive legal advice which should be sought as appropriate in relation to a particular matter. If you would like further information on the issues reported here, please contact Mr. Kakha Kuchava at: [kkuchava@mkd-law.com](mailto:kkuchava@mkd-law.com)

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